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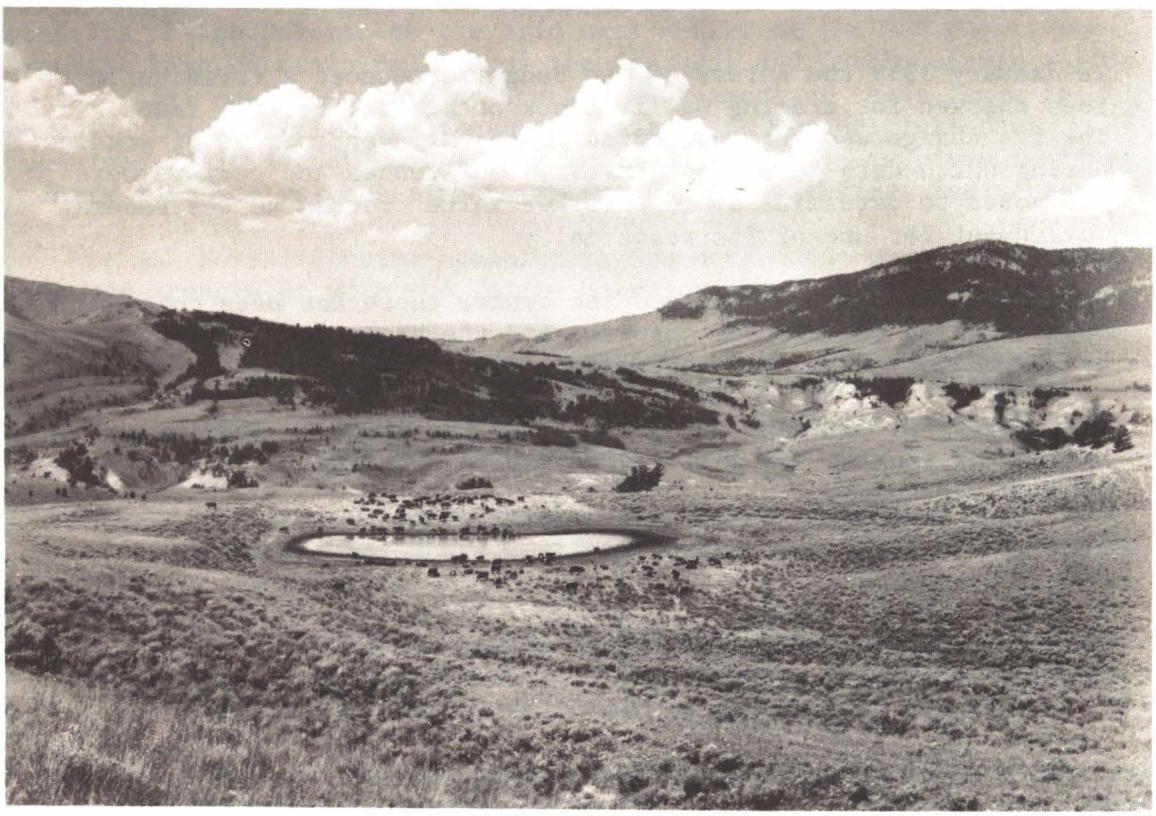
REPORT NO. 3

GRAZING FEES ON NATIONAL FOREST RANGE



PAST HISTORY AND PRESENT POLICY

FOREST SERVICE ● U.S. DEPARTMENT OF AGRICULTURE ● JUNE 1969

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In January 1969 the Bureau of the Budget announced a revision in fees charged for grazing of livestock on western Federal lands. The fee change was put into effect after a 9-year period of studies, during which data-gathering surveys, conferences and reviews were conducted to determine a "fair market value" return to the Federal Government for use of its resource.

Since establishment of the new fee system there has been considerable opposition to the new fee charges, and the basis upon which the "fair market value" charge was determined.

This report is intended to help clarify the issue by providing a brief history of grazing fee policy and factors relating to establishment of the new fee system.

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GRAZING FEES ON NATIONAL FOREST RANGE

Past History - And Present Policy

INTRODUCTION

The National Forest System, administered by the Forest Service, U. S. Department of Agriculture, contains 106 million acres of range environment found in 36 states. This rangeland extends from the vast prairies of the Dakotas to the arid semi-desert of the Southwest; and from the high mountain valleys of the far West and Intermountain region to the piney woods of the deep South. Management of these lands is based on the multiple-use concept emphasized in the Multiple Use Sustained Yield Act of June 1960. Full consideration is given to five primary resource values--timber, water, forage, wildlife, and recreation.

The Forest Service administers its nationwide program of range resource management with the following major objectives:

(1) To develop the range resources on all National Forest System lands to their reasonably attainable potential, and to manage them for sustained grazing in harmony with other resource values;

(2) To promote the stability of family ranches and farms in local areas where National Forests and National Grasslands are located;

(3) To provide nationwide leadership in conservation, development, and utilization of forest range including woodlands and brush-covered wildlands in mountainous areas.

(4) To practice and demonstrate sound grassland agriculture and conservation measures on the National Grasslands and promote similar practices on associated non-Federal lands.

BACKGROUND OF THE PERMIT SYSTEM

The Forest Service administers grazing privileges on the National Forest System lands under regulations promulgated by the Secretary of Agriculture based on the Act of June 4, 1897, the Act of April 24, 1950, and Title III of the Bankhead-Jones Farm Tenant Act.

Livestock grazing permits are allocated to ranch operators on the basis of certain qualifications. These include prior use of the public lands before they were established as National Forests or National Grasslands; local needs for additional grazing to round out yearlong ranching operations; and ownership or control of sufficient base ranch property to provide forage and feed for animals during the time they are not grazed on Federal lands. A primary consideration is to obtain physically well-balanced livestock units through the combined use of public and privately owned grazing lands.

Ranch operators who qualify are issued 10-year term grazing permits by the Forest Service. A permit has provision for renewal. It is validated each year by annual payment of a grazing fee. A permit may be re-issued to the qualified purchaser of base property or to the qualified purchaser of permitted livestock.

The permit specifies the number of animals to be grazed on the public lands along with the season of use. The Forest Service may make annual adjustments in the amount of grazing allowed in order to meet the estimated sustained grazing capacity of the range. Permitted use may be adjusted by limits on the number of animals allowed on the range, or by altering the length of the grazing season.

USERS HAVE GRAZING PRIVILEGES

About 63,000 farmers and ranchers graze livestock on National Forest System lands. Of these, approximately 19,000, or nearly one-third hold 10-year grazing permits for which a fee is charged. More than 41,000 permits are exempt from fees. The remaining 3,000 are private land permits and crossing permits. Most of the free grazing is for small numbers of milk cows or non-commercial work animals of a non-commercial nature needed by local rural residents.

Grazing privileges are vital to sustain the economic livelihood of approximately 19,000 farm and ranch families who raise commercial livestock herds in more than 600 rural communities. These permittees have a substantial investment in their ranch and farm operation. They own 45 million acres of their own land, and lease another 21 million acres of private land. Their livestock holdings total 3.3 million cattle, 4.2 million sheep, and 158,000 horses. Many of the permittees rely heavily on supplemental grazing provided by National Forest System lands as a means to maintain economically viable operations.

In 1968 some 7.5 million animals grazed on National Forest System lands. This grazing use amounted to 11.1 animal unit months. (An animal unit month is the amount of grazing required by a cow for one month).

HISTORY OF GRAZING FEES

Charges for grazing were first made on the National Forests in 1906. The first regulation provided for possible fee increases based on markets, transportation, and demand for permits.

The method for calculating grazing fees was changed in 1931, based on studies of National Forest grazing values conducted during the 1920's. Forage quality, accessibility, water resources, proximity to market, and livestock handling costs were considered. Basic premise of the study was that private land data on range values, or rental rates on private rangelands, could be used to determine the use value of National Forest range. Base fees varied from area to area, depending on local private range lease rates and other local factors.

Base fees established in 1931 were adjusted annually by formulae expressing the relationship between the previous year's average price for beef cattle or lambs in the western states and prices in established base periods. Under that formula fees had increased in 1968 to 3-1/2 times what they were in 1931.

However, over the years, it became clear that National Forest grazing fees still were consistently lower than lease rates on private land having comparable grazing value.

STEPS LEADING TO 1969 FEE CHANGES

In January 1969, the Bureau of the Budget announced a revision in fees for the grazing of livestock on western Federal lands.

The chronology of the various directives and studies leading to the grazing fee revision is as follows:

1951. Congress (Independent Offices Appropriation Act of 1952) directed each Federal agency to prescribe fees or charges that are fair and equitable and as uniform as practicable among the agencies.

1959. Comptroller General recommended that fair compensation be obtained for use of Federal lands. He also recommended more consistency in grazing fees charged by various Federal agencies and a joint agency study to arrive at a uniform fees system.

1959. Bureau of the Budget issued Circular A-25, pursuant to the 1951 Act, establishing the basic principle that where Federally-owned resources are leased, a fair market value should be obtained for use of them.

1960. Representatives of Departments of Agriculture, Defense, and the Interior formed a task force now known as the Interdepartmental Grazing Fee Committee. This task force was to study the fee situation on all public grazing lands, and to formulate recommendations for a more uniform approach to fee establishment among the Federal agencies. At the same time, the Bureau of the Budget began a study of user charges for all services and products provided by the Government and Federally managed natural resources, including grazing.

1961. The Forest Service and Bureau of Land Management, Department of the Interior, began a joint program of grazing fee studies.

1964. Bureau of the Budget issued study report entitled "Natural Resources Users Charges Study." It outlined guidelines for establishing grazing fees:

a. That a uniform basis should be used by all Federal agencies.

b. Fees should be based on economic value of use of public lands to users.

c. Economic value should be set by an appraisal that will provide a fair return to the Government and equitable treatment to the users.

1966. Data collection project. This was carried out by the Statistical Reporting Service, USDA, for the Forest Service and BLM. Its purpose was to obtain data on costs of grazing use on some 98 National Forests, 19 National Grasslands, and 48 BLM grazing districts in the western states. These data were to be studied and analyzed for evaluating current fee structures.

During the field survey, the principal livestock grazers, grazing associations, and financial institutions cooperated with Federal agencies in obtaining economic data that could be used in determining an equitable fee system.

The Statistical Reporting Service gathered data on non-fee costs of using public and private lands, lease rates on private grazing lands, and the market value placed by permittees on grazing permits.

Some 10,000 individuals were interviewed and more than 14,000 questionnaires were collected by the Statistical Reporting Service in the 1966 survey. Interviewees included Forest Service and BLM grazing permittees, ranchers who lease private grazing lands, and lending institutions.

1967. Analysis and discussion of 1966 survey data.

Preliminary results of evaluations were discussed with livestock representatives in October. This was one of a series of conferences with the livestock industry and concerned organizations. These included the Secretary of Agriculture's Advisory Committee on Multiple Use of the National Forests, American Farm Bureau Federation, National Association of Soil and Water Conservation Districts, and several National conservation organizations. These groups were kept informed and their comments and recommendations were solicited.

1968. The new fee schedule was proposed by the Departments of the Interior and Agriculture on November 15, 1968. A proposed regulation implementing the program in the western National Forests was submitted for review to the Forest Service's local grazing advisory boards and other interested organizations. Interior published its proposed fee regulations in the Federal Register November 16 and reviewed the proposals with its grazing district advisory boards and with its National Advisory Board Council.

An Interagency Technical Committee was formed to recommend ways for testing the combined FS-BLM grazing fees data for possible common fee areas. The Committee included representatives from Statistical Reporting Service, Economic Research Service, Forest Service, Bureau of Land Management, and Bureau of the Budget ex officio. The following conclusions were summarized in an October 1968 report:

a. Forest Service and BLM data can be combined. Survey data did not provide a basis for differential fees between the Forest Service and BLM.

b. Cost data collected in 1966 survey statistically supported only one base fee in the West.

c. An adjusted western-wide difference between private lease rates and public costs, excluding the grazing fee, was $1.23 per animal unit month for both cattle and sheep.

These conclusions provided the basis for establishing fair market value of grazing use on western public lands. "Fair market value" is defined as the difference between total costs of operating on private leased grazing lands and total non-fee costs of operating on National Forest System lands. These costs include lost animals, veterinary services, moving livestock to and from permitted areas, herding, salting and feeding, travel to and from permitted areas, water, horses, fence and water maintenance, development depreciation, and other miscellaneous costs. The private costs also include the private lease rates.

PRESENT FEE SYSTEM

Revised grazing fees as announced by the Bureau of the Budget, were put into effect in January of 1969 for certain Federal lands administered by the Departments of Agriculture and the Interior. The announcement followed the publication of Section 231.5 in the Federal Register of January 14, 1969 (Vol. 34, No. 9, pages 504 and 505), giving complete details of the new fee system.

On National Forest System lands, the revised fee system applies in 1969 to 15,000 out of a total of 17,300 grazing permits. The new fees apply to all National Forests in the 11 western states, plus South Dakota and Nebraska. Changes in fees for grazing on other National Forests and on the National Grasslands will be implemented starting in 1970.

Schedules call for base grazing fees to increase in ten annual steps until they reach the 1966 fair market value of $1.23 per animal unit month. Annual adjustments to the fair market value will be determined by an index of the preceding year's private lease rates. For 1969, this adjustment was plus two cents. The $1.23 fair market value for use of the public range resource was based on an economic analysis of the 1966 survey data.

Calculations have indicated that the 1969 fair market value of grazing use on public lands is $1.25. This represents the $1.23 base adjusted by the current private lease rate index of two cents as described above.

Grazing fees for a large percentage of permit holders will continue to be less than this calculated fair market value figure for a 10-year period while the fees are raised in annual steps to minimize the effect on stockmen.

As announced in January 1969, fees on western National Forests managed by the Forest Service will range from $0.31 to $1.25 per animal unit month for cattle. Sheep fees will be from $0.06 to $0.25 per sheep month. (Five sheep grazing for one month is the equivalent of one animal unit month). In 1968, these National Forest fees ranged from 21 cents to $1.80 per animal unit month.

PERMIT VALUE

Studies of the grazing fee data confirmed the fact that among farmers and ranchers grazing permits had accrued a value in themselves because in effect they had been bought, sold, and used as collateral. Disposition of the permit value per se became a point of contention.

Members of the livestock industry took the position that capitalized permit values should be considered a cost to those who graze public lands. They contended that on that basis the permit values should be included as a cost in calculating the fair market value of public grazing use.

The Forest Service has not agreed, for the following reasons:

1. Livestock grazing on National Forests is a privilege and not a right that can be transferred. It has been so considered since Secretary's Regulation 10 in 1905. Court cases have substantiated this interpretation and have held transfers of National Forest grazing privileges by permittees as illegal and unenforceable.

2. Special interests cannot be granted to any user group on the National Forests. To do so would erode the capacity of National Forest land to serve other people. Many grazing areas must also serve other public interests--wildlife, recreation, water and timber production. These public interests must be protected. If livestock grazers are given special rights to range resources of these areas, other users could not expect an equal level of benefits.

3. Recognition of permit value as a deductible cost in fee calculation would in effect compensate permittees for:

    a. That portion of the value they had paid to private individuals and

    b. That portion of the value developed through appreciation over time as the gap widened between fee charged and fair market value.

4. If permit values were recognized, permittees could conceivably demand compensation for any portion of a grazing permit value no longer available to them because of Forest Service resource management actions affecting size of the permit. The U. S. would then have to take similar action to reimburse permittees deprived of the use of other resources on the National Forest System.

5. The grazing fee value described has come into existence primarily because the fees paid to the Government for use of the resource have been less than the fair market value of that use. The economic impact of the grazing permit value is the result of a value which ranchers have built up among themselves in their transactions of livestock business. No payment for a permit value has ever been made to the real owner of the resource upon which the permit value is based.

A recent court decision relating to the inclusion of capital costs in determining fair market value for grazing fees was filed in the U.S. District Court for New Mexico at Albuquerque, on May 9, 1969. The plaintiff charged the Secretaries of Agriculture and the Interior acted illegally in determining fair market values for grazing fees without including the capital costs of permits and the costs of improvements made by the permittees on public lands. The plaintiff also charged that the fee schedule was a violation because it did not meet the test of reasonableness.

The Court determined against the plaintiff on the following principles:

a. The statutes entrust the Secretaries with wide areas of judgment and discretion in setting fees.

b. The Secretaries acted within the area of discretion and judgment committed to them by law in promulgating the new regulations.

c. It was not shown that the Secretaries failed to consider all of the factors as directed by Congress.

d. The Secretaries did not exceed statutory authorities in excluding permit value as an element of cost in operating on the Federal lands.

SOME FEES CONSIDERATIONS

The decision to revise the fees was reached after careful consideration of the effects upon livestock producers and obligations to the general public. The public obtains benefits from recreation, water, wildlife, and timber resources from many of the same lands under Multiple Use management principles emphasized in the Multiple Use Sustained Yield Act of June 1960.

In determining new fee policies, the impact on the permittee, who is most closely concerned, and on community stability, rural economic needs and Government programs were important considerations in addition to the foregone Federal Revenue and the rights of the general public to obtain multiple use benefits of Federal lands.

The Forest Service will continue its long established practice of issuing no-charge grazing permits for non-commercial livestock up to 10 head owned by resident farmers and ranchers. It also recognizes the problem of small operators in low-income areas where opportunities for off-ranch income are limited. Special attention will be given to this matter in areas where it deserves consideration.

The new fees system does not affect the tenure of a Forest Service grazing permit. Term permits will be issued for the amount of grazing available on the National Forest System within the constraints of proper management and needs of the American public including the livestock producing farmer and rancher.

QUESTIONS AND ANSWERS

Q. How long has the Forest Service been charging for grazing?

A. Grazing fees were authorized in 1905 by Regulation of the Secretary of Agriculture and the first fees were charged by the Forest Service in 1906. These initial fees were based upon the criterion of "reasonableness," and varied from place to place depending upon "...advantages and locality of the reserve." In 1931, the method of determining these fees was changed to include factors such as accessibility of grazing lands, forage quality, availability of water, nearness to markets and costs of livestock handling. The 1931 fees varied from area to area and were adjusted annually, based on the previous year's livestock prices.

Q. How many acres of National Forest System lands are now used for grazing?

A. A total of 106 million acres make up the range environment on the National Forest System. These same lands contribute many other benefits through multiple-use management of all resources.

Q. How many paid grazing permits does the Forest Service issue?

A. The Forest Service has 18,800 10-year term grazing permits in effect for 1.4 million head of cattle and 2.3 million sheep. The new fees system in 1969 involves 15,000 of these permits for 1.2 million cattle and 2.2 million sheep on National Forests in the West.

Q. What about the remainder of the cattle and sheep? Why aren't they included in the new fees system?

A. Management factors and current grazing fee structures are different in the East and most of the Midwest, as well as on the National Grasslands administered by the Forest Service. The fees for the Grasslands have a different base, and, in most cases, are higher than on National Forests. The remaining range lands managed by the Forest Service are primarily in the Southern States. Studies indicate that under the fee system currently in effect there, Forest Service permits for grazing have not gained appreciable monetary values.

Fair market value fee structures will be developed through similar studies for the National Grasslands, Land Utilization projects and other National Forests not included in the new fee schedule. Implementation of new fees systems on these lands is scheduled to begin in 1970.

Q. Why was it decided to change the fee system?

A. In 1951, Congress ordered that each Federal agency come up with fees that were fair and equitable, and that were as uniform as practicable among the agencies. This decision was reinforced in 1959 by the Bureau of the Budget, which ordered that where Federally owned resources are leased a fair market value should be secured for them. This was the now famous Circular A-25. Then, in 1964, the Bureau of the Budget offered additional guidelines, including a requirement that a uniform basis should be used by all Federal agencies in establishing fees. It had become clear that National Forest grazing fees were lower than private land lease rates--i.e. less than fair market value--and that criteria for fee determination varied too much between Federal agencies.

Thus, a decision to change the fee system.

Q. What is a fair market value?

A. Fair market value is the amount the prospective user of a product is willing to pay for that product--in this case, the value of use of the public grazing resource to the livestock owner.

More specifically, the use value of this grazing resource is equal to rental costs of private pastures leased by the livestock owner, after adjustment for differences in the cost of services provided on private lands by the landowners, but not provided on public lands.

After intensive evaluation of these factors, the Forest Service and other Federal agencies have determined this value of use to be $1.23 per animal unit month for the National Forests in the 11 Western States, South Dakota, and Nebraska.

Q. What is the legal basis for charging grazing fees?

A. The authority of the Secretary of Agriculture to permit and regulate grazing use on National Forest lands emanates from the Organic Act of June 4, 1897. While the act does not specify that fees will be charged, this has been understood to be part of the regulatory procedure. In 1905, the Secretary of Agriculture approved a regulation under authority granted by this Act, which states in part: "Regulation 25. On or after January 1, 1906, a reasonable fee will be charged for grazing all classes of livestock on Forest Reserves. . . ." Secretary Regulations authorizing the charge of grazing fees have been in effect since that time and have been judicially upheld.

The Granger Thye Act of April 24, 1950, while not specifically authorizing collection of grazing fees, does recognize that fees have been authorized and are being collected in its provision which states: "Of the monies received from grazing fees by the Treasury from each National Forest during each fiscal year, there shall be available at the end thereof when appropriated by Congress, an amount equivalent to two cents per animal month for sheep and goats and ten cents per animal month for other kinds of livestock under permit on such National Forests. . . ."

Q. What does a grazing permittee obtain under his permit?

A. The permit grants a privilege to use National Forest land for livestock grazing for certain periods of each year to supplement the grazing resource he has on his private property. Applying to the holder alone, the permit is issued for a term of 10 years and is validated annually on payment of the fees.

Q. How much did these fees cost before the new system was put into effect in January?

A. They varied from area to area. In 1968, the National Forest grazing fees in the West ranged from 21 cents to $1.80 per animal unit month (One cow grazing for one month).

Q. How much are the new fees?

A. New fees range from 31 cents to $1.25 per animal unit month, adjusted by changes in economic factors from 1966 when our major survey was made. Sheep grazing varies from six cents to twenty-five cents monthly.

Q. Doesn't the new fee schedule call for all fees to be $1.23 per animal unit month?

A. No. This was just the fee figure established for the base year of 1966. Each year, that figure will be adjusted, either up or down, by the forage price index. This index figure in 1969 was two cents more than the $1.23 base figure. Thus, the 1969 fee is $1.25. The aim of the new system is to put all grazing permittees on National Forests in the 11 Western States, plus South Dakota and Nebraska, on the 1966 base (plus or minus the forage index) by 1979.

Q. What is the forage value index?

A. It is the adjustment made annually, based on analysis of private land grazing lease rates by the Department of Agriculture's Economic Research Service for the year preceding the fee year. It is the one cost item in the fee formula that is allowed to be determined competitively. It is the most accurate factor that can be used to adjust the fee annually and assure that the fee is equivalent to the fair market value.

Since the range resource is a limited resource, ranchers bid against each other for private forage. The amount they bid on a private lease rate will depend directly on their expected returns from use of the resource and their costs of using it.

It quite accurately measures the market value.

Q. What kind of economic impact does the new fee charge have on the permit holder?

A. The immediate impact is an increase in annual production costs and a likely reduction in net income. But the new fee schedule has been designed to make adjustment to it as easy as possible. It is being phased in over a 10-year period in equal stages. For example, in a selected area of Utah, where the overall average number of animal unit months was less than 500, the fee increase to bring payment up to fair market value is seventy-two cents per animal unit month.

This would mean that if the increase were to take place in one jump, the total average fee paid for 500 AUM per permittee would climb from $255 to $615--an increase of $360. Realizing that such an increase at one time could be a severe hardship, the Forest Service has spread the increase over 10 years. Thus, the first increment, in this case, is $35 for this "average" permittee--from $255 to $290.

Q. What is the estimated increase in revenue to the Treasury expected from the fee increase?

A. We estimate the revenue increase in 1969 over 1968 will amount to $335,000. Over the 10-year period of increase, the accumulation of new money to the Treasury will come to more than $26.5 million.

Currently, the grazing fees for use of National Forest range bring in a little over $4 million each year. Total increase in fees, 1973 over 1968, will be $5.1 million. Thus revenue in 1978 is estimated to be over $9 million.

Q. Do any permittees get to use National Forest range free?

A. Yes. The Forest Service nationally issues about 63,000 grazing permits. About 19,000 are issued on a fee basis. More than 41,000 are issued free of charge. The remaining 3,000 are private land permits and crossing permits. The Forest Service has and will continue the longstanding practice of issuing no-charge grazing permits for non-commercial livestock up to 10 head by resident farmers and ranchers. Further consideration will also be given to the problem of small operators in low-income areas where opportunities for off-ranch incomes are limited.

Q. Won't the small operator bear most of the impact of the fee increase?

A. Those paying the lowest scales will have the biggest per-animal fee increases over the 10-year period to achieve the $1.23 base figure. But on both National Forest and other Federal land administered by the Bureau of Land Management, the larger operators have major shares of the grazing. Thirty percent of all National Forest grazing is allotted to 8 percent of the permittees. For BLM, 52 percent of all AUM's are allotted to 5 percent of the permittees.

Q. What are the objections cited by the livestock industry to the increase in fees?

A. Substantial agreement was reached with the livestock industry and other interested groups on all issues but one--the decision by the Federal Government to disallow permit value as a cost of grazing on public lands.

Q. What is permit value?

A. First, a bit of background is necessary.

Grazing fees charged by the Federal agencies have not been determined in the market place and have been lower than the value of use of the range resource to the user. Consequently, a separate value has developed in the market place because of the fees level--value of use gap. This separate value is the "permit value."

In order to qualify for a Forest Service grazing permit, a rancher must own base property and livestock. Permits cannot be exchanged directly between any two individuals, but the buyer of the base property and livestock owned by a previous permittee may apply for the grazing represented by the permit waived by the seller. The prospective buyer frequently has been willing to pay additional money for the required base property or livestock to get the permit.

Q. Since it has obviously become a cost of doing business, why isn't the Federal Government willing to include this "permit value" as a factor in determining a rancher's cost of operation?

A. Historically, the Forest Service, with the backing of court decisions, has viewed livestock grazing on National Forest lands as a privilege, not a right. Recognition of the permit value would give permittees strong argument that grazing is indeed a right and that they should receive payment for any portion of the grazing permit value they might lose through administrative action. Including the permit value as a deductible cost in fee calculation would recognize it as a right. The United States would then have to reimburse a permittee in order to take administrative steps to protect or develop range by limiting its use to the permittee.

In addition, if grazers are given special rights to grazing resources, other resource users could well suffer because the livestock permittees would have, in effect, a proprietary interest.

Q. What effect on the fee schedule would occur from recognizing permit value as cost of operation to the permittee?

A. Recognition of the permit value would mean leaving the fee essentially as it was until this year. The United States which owns the land would be relinquishing more than $5 million a year from a value which logically belongs to the people of the United States, rather than to individual livestock owners.

At the same time, as soon as the permit value was recognized, the value would begin increasing. This would require additional fee reductions to recognize the additional permit value as a production cost. Eventually, the fee could be reduced to zero and even result in the Government owing the permittee for allowing him to graze livestock on Federal land.

Q. How can the Federal Government deny the permit has a value when it is used as collateral for loans and has a definite tendency to raise the price of base land or livestock when a National Forest grazing permit is involved?

A. The Federal Government does not deny that a "permit value" exists and recognizes such value did accrue for permits over the years. But it is a value the private parties involved arranged among themselves in buying and selling base property and permitted livestock. Their reasoning, apparently, was that permits provided grazing at a lower price than they could get in leasing private land.

The Federal Government was not a party to the growth of value of the permit over the years. However, when the widening gap between the fee and fair market value became apparent, the Federal Government started its program of studies to determine the facts so that necessary action would be taken. The resulting new fee schedule is designed to recover that value for the American public which owns the land.

The extent of loss to the permittees is not so large as has been implied. More than half the present permittees acquired their grazing permits prior to 1950. Values placed on permits then were much lower than today, and present values are based on significant appreciation. Many permittees have, in effect, amortized their permit values by paying fees over many years which were less than the fair market value.

Q. How was fair market value determined?

A. According to the "economic model" the value of use could be determined and measured by either of two methods. Theoretically, the value of use determined by either method should be the same.

One method was to determine the permit value and capitalize it at a rate of return appropriate to the rate of return expected from other ranch investments. This plus the current grazing fee would be the full market value of use.

The other method of measuring the value of use of the public range resource was to determine the total cost of operation to the user on private leased grazing land (including all non-fee costs plus the private lease rate) and subtract from this private cost the total non-fee cost of operation to the user on public rangelands. This difference is the amount the rancher should be willing to pay per AUM for use of the range resource on public lands. The $1.23 value of use was determined by the latter method--i.e. the cost of operation difference method.

Q. What led up to the fees decision?

A. A series of studies, data-gathering surveys, interviews, questionnaires, conferences and analyses was conducted over a period of almost 10 years. The scope of the cost survey in 1966 is reflected by the fact that 10,000 individuals were interviewed and more than 14,000 questionnaires were collected. Comments on the proposed fee system were solicited from those involved or otherwise interested. More than 1,300 of these comments were received and reviewed. Other comments were received from Forest Service grazing advisory boards. All these steps were taken before the new fee system was implemented in January. Livestock industry representatives were involved in every stage of the survey, analysis and decision.

Q. Why were the Federal grazing land management agencies unwilling to wait until the Public Land Law Review Commission completed its studies on land uses?

A. This possibility was considered. But it was decided that a wait of indefinite length would not be carrying out the agencies' responsibilities to the public, nor would it eliminate the uncertainties to the industry. In addition, it did not appear that work underway by the Commission would provide the exhaustive data needed for the grazing fee decision. Finally, the Commission itself has stated its creation should not act to stop the on-going activities or programs of Government.

The new fee system was originally scheduled to go into effect in 1966. It was delayed again for the 1967 and 1968 grazing seasons. When the decision was put into action this year, 1969, the Federal Government sponsors knew the information obtained was sound. It had been given full and careful evaluation, and it had been thoroughly discussed with representatives of the livestock and lending industries, farmer and rancher associations, grazing advisory boards, the Department of Agriculture's Advisory Committee on Multiple Use of the National Forests, and the major conservation groups.

Q. Why was the Forest Service's variable fee scrapped in the new System?

A. The data collected by the Department of Agriculture's Statistical Reporting Service showed that differences between areas and between seasons of use are not statistically significant. Thus, these data will support only one base fee in the West. However, there may well be other factors outside the scope of the study that will provide basis for a variable fee in the future. Studies will continue on this subject. The Forest Service variable fee has not been scrapped.

Q. Has the new grazing fee permit system been tested in the courts?

A. Yes. The most significant to the Forest Service was a case decided May 9, 1969, in the U.S. District Court for New Mexico in Albuquerque. Actions against both the Secretaries of Agriculture and Interior were decided jointly by the judge. The plaintiff, Pankey Land and Cattle Co. of Truth or Consequences, New Mexico, challenged the new fee regulations. The company charged the Secretaries of Agriculture and Interior acted illegally in setting up the regulations without including the capital costs of permits and the costs of improvements made by the permittees on public lands. The company also said the fee schedule was a violation because it did not meet the test of reasonableness.

Earlier in Salt Lake City, the Federal District Court of Utah was the scene of a suit against the Secretary of the Interior calling for an injunction against institution of the new fee schedule.

Q. What were the decisions by the judges?

A. In both cases the courts upheld the decisions of the two Secretaries.

In its memorandum opinion the New Mexico court held that the Secretaries acted within the area of discretion and judgment committed to them by law in promulgating the new regulations and that there is no legal remedy available to the plaintiff from the court. The court found that it was not shown that the Secretaries had failed to consider all of the factors as directed by Congress.

The fact that the Secretaries did not consider the capitalized value of a permit as an element of cost in operating on the public domain, cannot, the court said, be held as a matter of law to reflect an action in excess of statutory authority.

Q. Has Congress taken any interest in the new regulations?

A. The Subcommittee on Public Lands of the Senate Committee on Interior and Insular Affairs held hearings, February 27 and 28, 1969, on the grazing fees issue. Similar hearings were held by the Public Lands Subcommittee of the House Committee on Interior and Insular Affairs, March 4 and 5, 1969. All interested parties were given an opportunity to testify at these Hearings. The hearings were a constructive means for laying out all of the ramifications of the fees issue. Additional hearings have been scheduled by the Subcommittee on Livestock and Grains of the House Committee on Agriculture but have been postponed.

The livestock industry, at the two hearings held, stressed an adverse economic impact, and a contention that the permit value should be included as a cost of doing business in establishing the fees. Conservationists supported the increase as a means of recovering fair market value for the Government and opposed inclusion of permit value in the formula on the basis it would establish a right to the permittee.

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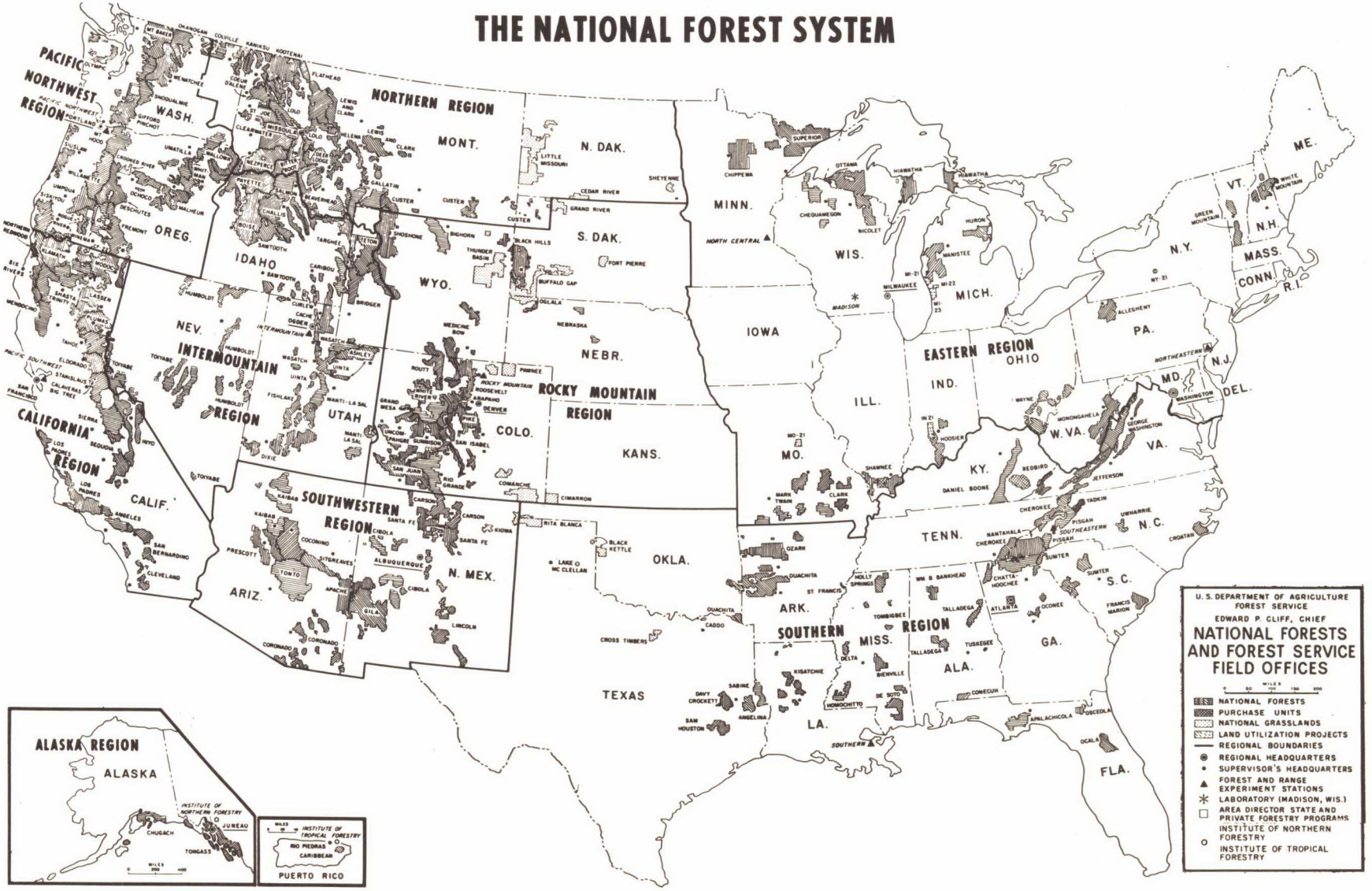
THE NATIONAL FOREST SYSTEM



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The Forest Service, U. S. Department of Agriculture, is dedicated to the principle of multiple use management of the Nation's forest resources for sustained yields of wood, water, forage, wildlife, and recreation. Through forestry research, cooperation with the States and private forest owners, and management of the National Forests and National Grasslands, it strives--as directed by Congress--to provide increasingly greater service to a growing Nation.

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